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8 **UNITED STATES DISTRICT COURT**
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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10 ERIKA SMITH and XAVIER JONES, wife
and husband,

11 Plaintiffs,

12 v.

13 WALMART, INC., a foreign corporation d/b/a
14 WALMART #4137, and J. Does 1-10,

15 Defendants.

Civil Action No. 3:20-cv-5477

DEFENDANT WALMART INC.'S NOTICE
OF REMOVAL OF ACTION PURSUANT
TO U.S.C. SECTIONS 1332, 1441, AND 1446

16 TO: CLERK, U.S. DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON

17 AND TO: PLAINTIFFS' COUNSEL OF RECORD

18 Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Walmart Inc. ("Walmart") hereby
19 removes this action from the Superior Court of the State of Washington in and for the County of
20 Pierce to the United States District Court for the Western District of Washington.

21 **I. STATEMENT AND GROUNDS FOR REMOVAL**

22 1. On or about April 6, 2020, plaintiffs filed a lawsuit in Pierce County Superior Court
23 entitled *Erika Smith and Xavier Jones v Walmart, Inc, d/b/a Walmart #4137 and J. Does 1-10*, cause
24 number 20-2-05822-5 (the "State Court Action"). Plaintiffs served Walmart with a copy of the
25 Summons and Complaint on May 5, 2020. Plaintiffs claim that as a result of Walmart's negligence,

DEFENDANT WALMART INC.'S NOTICE OF
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SECTIONS 1332, 1441, AND 1446 - 1

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206-204-6800

they have suffered substantial injuries, pain and discomfort, and/or a loss of consortium, and have incurred, and will continue to incur, medical expenses. Therefore, the amount in controversy appears to be in excess of \$75,000. *Declaration of Colin J. Troy* at ¶ 9.

2. Walmart has answered the Complaint filed in the State Court Action. The documents attached to the *Declaration of Colin J. Troy* as Exhibit A constitute all of the pleadings filed in the State Court Action. Walmart represents that, apart from the materials attached to the *Declaration of Colin J. Troy* as Exhibit A, it has received no other process, pleadings, motions or orders in this action.

3. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332. There is complete diversity of citizenship between the parties because plaintiffs are residents of Pierce County, Washington. Exhibit A to *Declaration of Colin J. Troy*. Defendant Walmart is a Delaware corporation with headquarters located in Bentonville, Arkansas. Exhibit C to *Declaration of Colin J. Troy*.

4. Walmart reserves the right to amend or supplement this Notice of Removal.

5. Should plaintiffs file a motion to remand this case, Walmart respectfully requests the opportunity to respond more fully in writing, including the submission of affidavits or other authority.

6. By filing this *Notice of Removal*, Walmart does not waive, and expressly reserves, all defenses available under Rule 12 of the Federal Rules of Civil Procedure.

II. INTRADISTRICT ASSIGNMENT

7. This claim is pending in the county of Pierce, Washington, and assignment to a judge in Tacoma is appropriate.

III. NOTICE TO THE STATE COURT AND PROPER FILING OF RECORDS

8. A notice of the filing of this *Notice of Removal* and a true copy of this *Notice of Removal* will be filed with the Clerk of the Superior Court of the State of Washington in and for the

1 County of Pierce as required by 28 U.S.C. § 1446(d).

2 9. Copies of all records and proceeding in the state court together with the *Declaration*
3 *of Colin J. Troy* verifying that they are true and complete copies of all the records and proceedings in
4 the State Court Action are filed concurrently with this *Notice*.

5 WHEREFORE, Walmart requests that this case currently pending in the Superior Court be
6 placed on the docket of the United States District Court for the Western District of Washington.

7
8 DATED: May 22, 2020

WOOD, SMITH, HENNING & BERMAN LLP

9
10 s/Colin J. Troy

11 Colin J. Troy, WSBA #46197

12 ctroy@wshblaw.com

13 Philip B. Grennan, WSBA #8127

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15 520 Pike Street, Suite 1525

16 Seattle, Washington 98101-4001

17 Phone 206-204-6800

18 Attorneys for Walmart Inc.

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2020, I electronically filed DEFENDANT WALMART, INC.'S NOTICE OF REMOVAL OF ACTION PURSUANT TO U.S.C. SECTIONS 1332, 1441 AND 1446 with the Clerk of the Court using the CM/ECF.

I hereby certify that the following have been served via CM/ECF electronic service:

Zach J. Hansen
Wattel & York, LLC
6314 19th Street West, Suite 15
Fircrest, WA 98466
z.hansen@wattelandyork.com

DATED this 22 day of May, 2020.

/s/Keaton McKeague
Keaton McKeague
kmckeague@wshblaw.com

LEGAL:10366-0155/14541152.1